

June 6, 1999
Mr. Norman Young
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098

Dear Mr. Young,

In regard to your May 26, 1999 order concerning controlled and measured diversions from Alder Creek, we are in full agreement that these measures are required. We are currently making efforts to fulfill these requirements for our water rights. We have recently cleaned our diversion heading, purchased a headgate (not yet installed), and are actively seeking information on requirements/source for a weir/flume. However, due to the current flood conditions, and late receipt of your order (June 4), the specified June 7 deadline will not be possible. Our plans are to continue to pursue the required information and purchase/construct the measuring device, and to install this arrangement when flood conditions subside.

As the respective order requires IDWR approval of the plans for the intended headgate/measuring system, I am requesting whatever direction your department can give me to fulfill your requirements. For example, as mentioned above, I have already purchased a headgate. As it has no features making it lockable, will this suffice? Do I need to make modifications to make it lockable? Do I need to purchase a different headgate that is acceptable?

Recent conversation with Mr. Tim Luke of your department indicates that Doug Rosenkrance intends to use his existing headgate as a "measuring device". We find that totally unacceptable, and insist that the same flow measurement accuracy and lockable headgate requirements placed on others are also required of IDWR employees. Due to personal witness of continuous past water usage by Rosenkrance well in excess of 250 inches, self-enforcement of the law is not enough. I plan to continuously check his water usage personally.

I would also like to address to you my thoughts on this "Pending Notice of Violation for Application of Water not in Conformance with a Valid Water Right....", also received on June 4, from Tim Luke. As you are likely aware, this "charge" is originated by your Dist. 34 watermaster for allowing "excess and unregulated" water onto my fields. This allegation also states that the diverted water is not applying the water to beneficial use. This water flow is a result of Alder Creek rising into my diversion ditch, which I had cleaned within 10 feet of Alder Creek approximately 6 weeks ago. No water flow was initiated at the time of the cleaning. I do, however, make no apologies for this water flow. It is my belief that as a water right holder, I am entitled to use as much flood water as I see fit. This water usage is currently unregulated, except my usage, evidently. As discussed with Mr. Luke, I feel that this water usage is alleviating flood

potential in the Lost River Valley, and that this "historical practice" is currently being performed by multiple water users. With respect to "beneficial use", this water is directed to flow over one of my old alfalfa fields. My intent this year, with my water system not currently in operable condition and time too short to grow a planted crop, is to water and grow this existing alfalfa and other vegetation to the extent possible for grazing of my cattle. Evidently, Rosenkrance interprets "beneficial use" as only what is beneficial to Doug Rosenkrance.

I note that this "flood water only" right awarded by you to Sorensen, et al on the Era flats has been being used the entire spring season, weeks in advance of any "high water" indication in any of the creeks or the river. I also note refusal of delivery of water for our right in 1998 because that court decision was still under appeal. Conversely, the fact that objections concerning the Era flats decision have yet to be resolved have no impact on that "legal" water usage. I finally note that water usage by Rosenkrance and his Houston Grazing Assoc. out of his Vanous-Alder Creek diversion is equally in excess of any water right held as is the case of my "crime".

It is evident that Rosenkrance feels he can enforce his self-made and self-serving "laws" as he sees fit, only to be "obeyed" by those not on his "special buddy" list. Water users on his "outcast" list are to be harassed, despite legal water usage. Again, I formally complain about Rosenkrance's continuous biased enforcement practices and harassment. I also note the apparent approval of Rosenkrance's actions by the IDWR based on no action despite continuous complaints and evidence.

Please also note my comments on the "Guidance for Distribution of Alder Creek Water Rights and Flows" (attached). It's almost humorous to see how IDWR gives me a "pending notice of violation" for three or four days of legal flood water usage, while they reward Rosenkrance with no penalty and a new and favorable definition of a tributary, after over 10 years of significant illegal water usage and abuse of authority. It certainly raises the question of what does this apparent "favorite son" hold over the IDWR?

You need to know that this is the second time we have received an important document from IDWR with time constraints specified that we can not possibly meet due to IDWR mailing this information to our old address and thus having to resend it to our current address. Our records with IDWR are up to date and have been for a very long time.

Sincerely,

A handwritten signature in black ink, appearing to read "John McCray". The signature is fluid and cursive, with the first name "John" and last name "McCray" clearly distinguishable.

John McCray
3470 Cobblestone Lane
Idaho Falls, Idaho 83404

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